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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-03-2006

CORAM :

THE HONOURABLE MR. JUSTICE A. KULASEKARAN

S.A. No. 17 of 1996

1. Tamil Nadu Electricity Board,
   rep. by its Superintending
   Engineer, Cuddalore (South
   Arcot Vallalar Elecy. Distn.Circle).

2. The Junior Engineer,
   Tamil Nadu Electricity Board
   (Operation & Maintenance),
   Vadalur, Cuddalore District.
... Appellants/Appellants/Defendants

-vs-

Sathya Gnana Sabhai,
Vadalur, Rep. by
Administrative Officer. ... Respondent/Respondent/Plaintiff

Second Appeal under Section 100 C.P.C. against the Judgment and Decree dated 24.9.1993 made in A.S.No.7/93 on the file of Principal Sub Court, Cuddalore, confirming the Judgment and Decree dated 25.3.91 made in O.S.No.1033/88 on the file of District Munsif Court, Cuddalore.

For Appellant : Mr.V.Radhakrishnan

For Respondent : Mr.R.Yashod Vardhan

J U D G M E N T

The defendants in O.S.No.1033 of 1988 on the file of District Munsif, Cuddalore, are the appellants herein.

2. The respondent, Sathya Gnana Sabhai is a public charitable religious institution under the control of Hindu Religious and Charitable Endowments, managed by the Executive Officer appointed by the said department. At the time of effecting service connection No.5 for providing lights to the road leading to the said institution, the appellant Board applied Tariff II. Later, by Ex.A.1 dated 14.7.1988, they sought to apply Tariff VIII, which was challenged by the respondent by filing the above said suit seeking for the relief of declaration and consequential injunction.

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3. Before the trial Court, the appellant herein marked Ex.A.1, the impugned notice of the appellant dated 14.7.1988 and examined one Marimuthu, the Executive Officer, as P.W.1. The respondent herein marked Ex.B.1, the audit report dated 28.6.1988 and Ex.B.2, Tariff Notification dated 6.1.1988 and examined one Ganesan as D.W.1.

4. The trial Court, taking into consideration both oral and documentary evidence, rejected the argument of the appellant that Tariff II could be applied in respect of lighting arrangements in the street by the local authorities not by the charitable institution like the respondent herein. The trial Court pointed out that the respondent institution is working under the control of Hindu Religious and Charitable Endowment, which is also an organ of the Government.

5. The appellant herein filed an appeal, which was also dismissed by the first appellate Court holding that no definition as to what is public lighting was found mentioned in Act 1 of 1979, which was relied upon by the appellant herein to show that the respondent institution is liable to pay consumption charges under Tariff VIII and hence, in the absence of any such definition and also in view of the exclusion of the charitable institution like the respondent herein, it is not proper on the part of the appellant herein to apply Tariff VIII. Hence, this second appeal.

6. I have considered the submissions made by both sides. During the course of arguments, it is brought to the notice of this Court, sub clause 'k', relating to "public lamps" and sub clause 'm' relating to "street" of Section 2 of the Indian Electricity Act, 1910, which contemplate thus:-

> "2. (k) - "Public lamps" means an electric lamp used for the lighting of any street.
> (m) - "Street" includes any way, road, lane, square, Court alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and foot way over any public bridge or causeway."

7. It is seen from the above said definitions that public lamps means any electric lamp used for the lighting of any street, which includes any way, road, lane, square, Court alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and foot way over any public bridge or causeway. It is needless to mention that the expansive definitions govern the lighting arrangement made by the respondent herein.

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8. In view of the discussion above, this Court finds no reason to interfere with the well considered order passed by the Courts below. In the result, the second appeal is dismissed. No costs.

sra

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Principal Sub Court, Cuddalore.

2. The District Munsif, Cuddalore.

+ 1 cc to Mr.V. Radhakrishnan, Advocate SR No.12078

+ 1 cc to Mr.R. Yashodvardhan, Advocate SR No.11705

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SR/5.4.2006

S.A.No. 17 of 1996

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